



ANALYSIS

Title	3. Right of appeal against order for costs
1. Short Title	4. Court to which defendant to be committed
2. Defendant's general right of appeal to High Court	5. Part II of First Schedule amended

1998, No. 61

An Act to amend the Summary Proceedings Act 1957

[3 June 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Summary Proceedings Amendment Act 1998, and is part of the Summary Proceedings Act 1957 (“the principal Act”).

2. Defendant's general right of appeal to High Court—(1) Section 115 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) Except as expressly provided by this Act or by any other enactment, where a District Court determines any information or complaint, and—

“(a) Convicts any defendant; or

“(b) Makes any order, including—

“(i) An order for the payment for costs; or

“(ii) An order declining an application for the payment for such costs; or

“(iii) An order for the estreat of a bond,—

the person convicted or against whom the order is made may appeal to the High Court.”

(2) Section 115 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

“(4) Every appeal under this section, or under any of sections 115A to 115DA, is a general appeal.”

- (3) The following enactments are consequentially repealed:
- (a) So much of the Schedule of the Summary Proceedings Amendment Act 1969 as relates to section 115 (4) of the principal Act:
 - (b) Section 12 (2) of the Summary Proceedings Amendment Act 1976:
 - (c) Section 2 (2) of the Summary Proceedings Amendment Act (No. 5) 1985:
 - (d) So much of the Schedule of the Summary Proceedings Amendment Act (No. 2) 1987 as relates to section 115 (4) of the principal Act.

3. Right of appeal against order for costs—The principal Act is amended by inserting, after section 115D (as substituted by section 11 of the Summary Proceedings Amendment Act (No. 2) 1991), the following section:

“115DA. An informant may appeal to the High Court against an order for the payment of costs made by a District Court in favour of the defendant.”

4. Court to which defendant to be committed—Section 168A of the principal Act (as substituted by section 8 (1) of the Summary Proceedings Amendment Act 1991) is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) Subject to subsection (2), the Court to which a defendant must be committed for trial under section 168 or section 172 is as follows:

“(a) In respect of any offence that a District Court has jurisdiction to try by virtue of any of paragraphs (a) to (d) of section 28A (1) of the District Courts Act 1947, either—

“(i) The District Court exercising that jurisdiction nearest to the committing Court; or

“(ii) Such other District Court exercising that jurisdiction as may be specified in regulations made under this Act as being a Court to which the defendant may be committed for trial (even if not nearest to the committing Court);

“(b) In respect of any other offence, either—

“(i) The High Court at the place where sittings of the Court are held nearest to the committing Court; or

“(ii) The High Court at such other place as may be specified in regulations made under this Act as

being the place at which sittings of the High Court are conducted, and to which the defendant may be committed for trial (even if not nearest to the committing Court).

“(2) Where the defendant has been charged—

“(a) With offences arising from the same incident or series of incidents in respect of which he or she must be committed to the High Court on at least 1 charge; or

“(b) Together with some other person or persons with offences arising from the same incident or series of incidents in respect of which he or she must be committed to the High Court on at least 1 charge,—

the Court to which a defendant must be committed for trial under section 168 or section 172 must be either—

“(c) The High Court at the place where sittings of the Court are held nearest to the committing Court; or

“(d) The High Court at such other place as may be specified in regulations made under this Act as being a place at which sittings of the High Court are conducted and to which the defendant may be committed for trial (even if not nearest to the committing Court).”

5. Part II of First Schedule amended—Part II of the First Schedule is amended by inserting in the appropriate columns, opposite the item relating to the Companies Act 1955, the following items:

“188A	Certain persons prohibited from managing companies
“189A	Certain persons may be prohibited from managing companies by Registrar”.

This Act is administered in the Ministry of Justice.
